

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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HENRY F. OSGOOD,

Plaintiff,

v.

12-CV-565  
(TJM/CFH)

MICHAEL J. AMATO, Sheriff; MICHAEL  
FRANKO, Jail Administrator;

Defendants.  
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THOMAS J. McAVOY  
United States District Judge

**DECISION and ORDER**

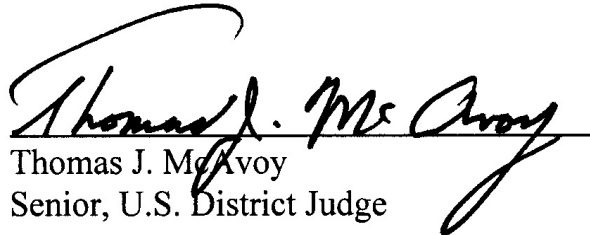
This action, brought pursuant to 42 U.S.C. § 1983, was referred by this Court to the Honorable Christian F. Hummel, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

In the Report-Recommendation, Magistrate Judge Hummel recommends that Defendants' motion to dismiss be granted with respect to Plaintiff's condition of confinement, access to counsel, and freedom to practice religion claims. Further, Magistrate Judge Hummel recommends that Defendant's motion to dismiss be denied with respect to Plaintiff's Equal Protection claim and his Procedural Due Process claim regarding his continued placement in Involuntary Protective Custody. No objections to the Report-Recommendation dated June 7, 2013 have been filed. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, this Court adopts the Report-Recommendation for the reasons stated therein.

It is hereby ORDERED that Defendants' motion for summary judgment is GRANTED in part and DENIED in part. Plaintiff's claims under the Eighth Amendment concerning the conditions of confinement, under the Sixth and First Amendment concerning access to counsel, and under the First Amendment concerning freedom to practice religion claims are DISMISSED. This motion is DENIED with respect to Plaintiff's Equal Protection and procedural due process claims.

IT IS SO ORDERED.

Dated: July 17, 2013

  
Thomas J. McAvoy  
Senior, U.S. District Judge